

EXHIBIT A

No. 26-1015

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

EMELINE LAKROUT,
Plaintiff-Appellant,
NATIONAL FEDERATION OF THE BLIND OF NEW YORK STATE, INC.
Plaintiff,

v.

NEW YORK STATE UNIFIED COURT SYSTEM, MILTON ADAIR
TINGLING, in his official capacity, and CHRISTOPHER DISANTO, in his
official capacity,
Defendants-Appellees.

On Appeal from the United States District Court for the
Southern District of New York
1:24-cv-07789 (Hon. Mary Kay Vyskocil)

**BRIEF OF AMICI CURIAE AMERICAN CIVIL LIBERTIES UNION,
NEW YORK CIVIL LIBERTIES UNION, DISABILITY RIGHTS
EDUCATION AND DEFENSE FUND, DISABILITY RIGHTS NEW YORK,
AND NATIONAL DISABILITY RIGHTS NETWORK IN SUPPORT OF
PLAINTIFF-APPELLANT**

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RULE 29(a)(4)(A) DISCLOSURE STATEMENT

Pursuant to Rule 29(a)(4)(A) of the Federal Rules of Appellate Procedure (“FRAP”), counsel for *amici curiae* certify that no *amicus* has a parent corporation and that no publicly held corporation owns 10 percent or more of any *amicus*’ stock.

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INTEREST OF *AMICI CURIAE*¹

The **American Civil Liberties Union** (“ACLU”) is a nationwide, nonprofit, nonpartisan organization with nearly two million members and supporters dedicated to the principles of liberty and equality embodied in the Constitution and America’s civil rights laws. The **New York Civil Liberties Union** (“NYCLU”), is the New York State affiliate of the ACLU. The ACLU and the NYCLU work toward a society in which discrimination against people with disabilities no longer exists, and in which people with disabilities are valued integrated members of the community, with equal access to our justice system and the community. Towards this end, the ACLU and the NYCLU have frequently appeared as both counsel and amici in cases involving the rights of individuals with disabilities. *See, e.g., Disability L. Ctr. v. Cox*, No. 2:25-cv-01154 (D. Utah) (ACLU as counsel in challenge to denial of disabled individuals’ access to guardianship proceedings); *P.G. v Jefferson Cnty.*, No. 5:21-cv-00388 (N.D.N.Y.) (ACLU and NYCLU as counsel in challenge to denial of disability accommodations for medical treatment in county jail); *NYSARC v. Hochul*, 72-cv-356, 357 (E.D.N.Y.) (NYCLU as counsel in long-standing case establishing standard of care for people with developmental/intellectual disabilities);

¹ Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), amici certify that no person or entity, other than amici, their members, or their counsel, made a monetary contribution to the preparation or submission of this brief or authored this brief in whole or in part.

In the Matter of K.Y.Z., 44 N.Y.3d 657 (2025) (ACLU and NYCLU as amicus in case involving rights of parents with disabilities and their family members). Defending the right of disabled New Yorkers to participate in jury service is a matter of substantial interest to the ACLU, the NYCLU and their members.

Disability Rights New York (“DRNY”) is a not-for-profit corporation founded in 1989 that has been designated by New York as the State’s Protection and Advocacy System and Client Assistance Program since 2013. *See* N.Y. Exec. Law § 558(b). DRNY is part of a nationwide network of disability advocacy and legal services organizations mandated by federal law to protect and advocate for individuals with disabilities. Pursuant to its federal mandates, DRNY devotes resources to advocating for full, systemic access for people with disabilities to public accommodations and government facilities, programs and services.

The **Disability Rights Education and Defense Fund** (“DREDF”) based in Berkeley, California, is a national law and policy center dedicated to protecting and advancing the civil rights of people with disabilities. Founded in 1979, DREDF pursues its mission through education, advocacy, and law reform efforts, and is nationally recognized for its expertise in the interpretation of federal disability civil rights laws.

The **National Disability Rights Network** (“NDRN”) is the non-profit membership organization for the federally mandated Protection and Advocacy

(“P&A”) and Client Assistance Program (“CAP”) agencies for individuals with disabilities. The P&A and CAP agencies were established by the United States Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. There are P&As and CAPs in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Territories (American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands), and there is a P&A and CAP affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. Collectively, the P&A and CAP agencies are the largest provider of legally based advocacy services to people with disabilities in the United States.

INTRODUCTION AND SUMMARY OF ARGUMENT

The District Court’s order holding, *sua sponte*, that Plaintiff Emeline Lakrouit lacked standing to challenge her exclusion from jury service rests on a fundamental misunderstanding of how disability discrimination frequently operates and, if upheld, would undermine the purpose of Section 504 of the Rehabilitation Act (“Section 504”) and Title II of the Americans with Disabilities Act (“ADA”). Congress enacted these statutes to remedy the systemic barriers to access that people with disabilities face by imposing on public entities an affirmative duty to remove those barriers. The affirmative duty to remove barriers is necessary so that when a person

with a disability arrives at a government building or interacts with a government service, program or activity, the government is prepared to include the person.

Defendants' exclusion of Ms. Lakrout from jury service illustrates precisely this principle. Her exclusion was not an isolated incident but the product of Defendants' failure to remove the systemic barriers she and other prospective blind jurors face to accessing jury service. The New York State Unified Court System lacks the appropriate procedures and protocols for identifying disabled court users' accommodation needs and for identifying and securing auxiliary aids and resources for meeting those needs. Neither the judge nor the prosecutor asked Ms. Lakrout what accommodations she needed or initiated any procedures to determine effective accommodations that would allow her to carry out her constitutional duty. The District Court's causation determination ignored these allegations and did not discuss whether Defendants fulfilled their affirmative duties. The District Court's erroneous causation analysis shields Defendants' discriminatory failures from judicial review and directly undermines the objectives of Section 504 and the ADA. It should be reversed.

ARGUMENT

I. Jury Service is a Fundamental Civic Duty, and the Exclusion of Disabled Jurors Undermines the Judicial System.

A. Jury Service is a Core Form of Civic Participation.

The importance of jury service as a fundamental civic duty cannot be understated. “Jury service is critical to the orderly dispensation of justice in the American legal system and is one of the pillars of our democracy.” J.A. 57. Specifically, jury service provides one of the “most significant opportunit[ies] to participate in the democratic process,” fosters citizens’ respect for the law, and “ensures continued acceptance of the law by all of the people.” *Powers v. Ohio*, 499 U.S. 400, 407 (1991). Serving on a jury is the only situation where a private citizen is directly imbued with the state’s power to interpret and enforce laws, therefore directly shaping governance.

Equal participation in the justice system, whether as a party, witness, juror, or advocate, is integral to the American way of life. “Central both to the idea of the rule of law and to our own Constitution’s guarantee of equal protection is the principle that government and each of its parts remain open on impartial terms to all who seek its assistance.” *Romer v. Evans*, 517 U.S. 620, 633 (1996). Systemically excluding any group of people not only abridges this fundamental right and core form of civic participation, but also undermines the judiciary’s legitimacy.

B. Excluding Jurors with Disabilities Undermines the Fairness, Representativeness, and Legitimacy of the Judicial System.

Excluding a class of people from jury service undermines the integrity of the judiciary, reduces the accuracy and fairness of judicial decisions, and harms not only members of the excluded communities, but the public at large. When citizens with disabilities are systematically excluded from jury service, they are cut off from an essential element of civic participation and stripped of the opportunity to contribute their perspectives to the courts' administration of justice.

The harm of exclusion is not confined to prospective disabled jurors; it also harms the public by reducing courts' legitimacy and accuracy. "[T]he requirement of a jury's being chosen from a fair cross section of the community is fundamental to the American system of justice." *Taylor v. Louisiana*, 419 U.S. 522, 530 (1975). Courts fail to meet this requirement when they "systematically exclude distinctive groups in the community." *Id.* at 538. The Supreme Court has further emphasized that "exclusion of an eligible class or group" of jurors results in "injury to the jury system, to the law as an institution, to the community at large, and to the democratic ideal reflected in the processes of our courts." *Ballard v. United States*, 329 U.S. 187, 195 (1946). In essence, discriminatory jury selection harms "the entire community" by "undermin[ing] public confidence in the fairness of our system of justice." *United States v. Martinez*, 621 F.3d 101, 107 (2d Cir. 2010) (quoting *Batson v. Kentucky*, 476 U.S. 79, 87, 106 (1986)).

Beyond harms to judicial legitimacy, excluding a class of jurors also deprives litigants of perspectives that materially improve the jury's truth-seeking function. Several courts have recognized that "when any large and identifiable segment of the community is excluded from jury service, the effect is to remove from the jury room qualities of human nature and varieties of human experience, the range of which is unknown and perhaps unknowable." *McCray v. Abrams*, 750 F.2d 1113, 1127 (2d Cir. 1984) (quoting *Peters v. Kiff*, 407 U.S. 493, 503–04 (1972)), *vacated on other grounds*, 478 U.S. 1001 (1986)). Regardless of intent, the wholesale exclusion of any segment of the community is objectionable because it deprives litigants of a jury that "will reflect a fair cross section of the community." *Roman v. Abrams*, 822 F.2d 214, 228 (2d Cir. 1987). Excluding individuals with disabilities from jury service therefore deprives both the litigants and the members of the jury of unique perspectives and life experiences that enhance deliberations and ensure a just and fair verdict. Empirical literature strongly supports this conclusion: "[h]eterogeneous juries have an edge in fact finding, especially when the matters at issue incorporate social norms and judgments, as jury trials often do." Valerie P. Hans & Neil Vidmar, *The Verdict on Juries*, 91 *Judicature* 226, 227 (2008).

Excluding people with disabilities from the jury process also undermines public access to the court and the important concerns of fairness, legitimacy, and democratic participation that underly this right. Like the right to a jury that does not

exclude segments of the community, the right of public access to court proceedings promotes fairness and integrity of the judicial system.

Public access to court proceedings is deeply ingrained in the American legal system. In *Richmond Newspapers, Inc. v. Virginia*, the Supreme Court held that the First Amendment and common law guarantee a qualified right of access to criminal trials. 448 U.S. 555, 580 (1980). There, the Court emphasized that the presumption of openness is “no quirk of history” but instead reflects “an indispensable [sic] attribute of an Anglo-American trial.” *Id.* at 569 (“[T]hroughout its evolution, the trial has been open to all who care to observe.”). The Court subsequently extended the right of public access to related court proceedings, such as witness testimony, *Globe Newspaper Co. v. Superior Ct. for Norfolk Cnty.*, 457 U.S. 596, 607–11 (1982), *voir dire* proceedings, *Press-Enter. Co. v. Superior Ct. of Cal., Riverside Cnty. (Press-Enter. I)*, 464 U.S. 501, 510–13 (1984), and preliminary hearings, *Press-Enter. Co. v. Superior Ct. of Cal. for Riverside Cnty. (Press-Enter. II)*, 478 U.S. 1, 13–15 (1986). The Second Circuit has gone even further, extending the right to civil trials, *Westmoreland v. Columbia Broad. Sys., Inc.*, 752 F.2d 16, 23 (2d Cir. 1984), and administrative adjudicatory proceedings, *N.Y. Civ. Liberties Union v. N.Y.C. Transit Auth.*, 684 F.3d 286, 305 (2d Cir. 2012).

Like jury service, public access plays a significant role in the proper functioning of the judicial process and in ensuring government accountability. Such

access enhances “both the basic fairness” of judicial proceedings and “the appearance of fairness so essential to public confidence in the system.” *Press-Enter I.*, 464 U.S. at 508. As the Supreme Court explained in *Globe Newspaper*, underlying the right of public access is the principle that individuals may freely discuss governmental affairs and “effectively participate in and contribute to our republican system of self-government.” 457 U.S. at 604. Public access thus “safeguards the integrity of the factfinding process” and serves as “an essential component in our structure of self-government.” *Id.* at 606.

When people with disabilities cannot participate in public court proceedings as prospective jurors, on equal terms with their non-disabled peers, the government reinforces the message that they are second-class citizens and undermines the judicial process’s legitimacy and promise of fairness. As such, the “benefits to both the defendant and to society as a whole” that derive from public access to judicial proceedings are undermined. *See id.* Excluding disabled individuals from juries and courtrooms alike thus diminishes the fairness, legitimacy, and democratic character of the entire judicial system.

II. Plaintiff’s Exclusion from Jury Service Reflects Precisely the Systemic Discrimination Congress Enacted Section 504 and the ADA to Eliminate.

Congress enacted Section 504 and the ADA to remedy pervasive disability discrimination in all aspects of society, including barriers to participation in jury

service. In seeking to eradicate such systemic discrimination, these statutes impose an affirmative duty on public entities like Appellees to modify their policies, procedures, and practices to remove architectural, communication, and other barriers to accessibility. This affirmative duty is the cornerstone of disability discrimination law—the failure to accommodate people with disabilities “will often have the same practical effect as outright exclusion.” *Tennessee v. Lane*, 541 U.S. 509, 511, 531 (2003).

The exclusion of blind people from jury service illustrates this principle. Blind prospective jurors face pervasive institutional barriers to jury service that are not the result of discriminatory individual decisions but are instead the result of the widespread failures of courts to take the required affirmative steps to include and accommodate disabled court users, including identifying and providing the auxiliary aids and services that a person may need. Enforcement of Section 504 and the ADA is thus critical to the ability of blind people to exercise their fundamental duties of citizenship, including jury service.

A. Federal Disability Discrimination Laws Impose Affirmative Obligations to Address the Type of Systemic Exclusion Alleged in this Case.

Congress enacted Section 504 to “eliminate the ‘glaring neglect’ of the handicapped.” *Alexander v. Choate*, 469 U.S. 287, 296 (1985) (quoting 118 Cong. Rec. 526 (1972)). Similarly, the ADA “provide[s] a clear and comprehensive

national mandate for the elimination of discrimination against individuals with disabilities” through “clear, strong, consistent, enforceable standards” that “the Federal Government plays a central role in enforcing.” 42 U.S.C. § 12101(b)(1)–(3).

Historically, although the problems faced by people with disabilities were seen as inevitable consequences of their disability, Section 504 reflected Congress’s recognition that the inferior social and economic status of people with disabilities was instead the result of societal barriers and prejudices. *See* S. Rep. No. 93-318 (1973); H.R. Rep. No. 93-500 (1973). As the Supreme Court later noted when describing Section 504, “[d]iscrimination against the handicapped was perceived by Congress to be most often the product, not of invidious animus, but rather of thoughtlessness and indifference—of benign neglect.” *Choate*, 469 U.S. at 295.

Still, more than ten years after Section 504 was passed, the U.S. Civil Rights Commission issued an almost 200-page report finding that pervasive disability discrimination persisted. *See* U.S. Comm’n on Civil Rights, *Accommodating the Spectrum of Individual Abilities* 27–40 (Sept. 1983) (“Accommodating Abilities”). *Accommodating Abilities* detailed that throughout history, people with disabilities had been discriminated against and denied the opportunity to participate equally in education, employment, medical treatment, and society as a whole due to architectural and other barriers because buildings, thoroughfares, and public transit had been constructed without considering people who have differing accessibility

needs (i.e, stairs, narrow doorways and aisles, revolving doors, inaccessible restroom facilities and drinking fountains, light switches and fire alarm boxes that cannot be reached, lack of raised letter and braille signs, lack of handrails and grab bars, architectural impediments and physical obstacles that rendered the use of public transit impossible, and others). *Id.*

In drafting and passing the ADA a decade later, Congress extended Section 504's protections, relying on similar extensive findings about the history and ongoing predominance of disability discrimination in the United States, including in the critical area of accessing courts. The record confirmed that "individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make reasonable modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services." 42 U.S.C. § 12101(a)(5). For example, Congress' appointed task force reported numerous examples of persons with visual and hearing disabilities being excluded from jury service and the failure of state and local governments to provide interpretive services for the hearing impaired. *Lane*, 541 U.S. at 527.² Congress also

² *Citing* Government's Lodging in *Garrett*, O. T. 2000, No. 99-1240 and Task Force on the Rights and Empowerment of Americans with Disabilities, *From ADA to*

heard testimony from people with disabilities describing structural inaccessibility of local courthouses across the country and learned many individuals were excluded from courthouses and court proceedings on the basis of their disabilities. *Id.*

This legislative history confirms that, for generations, governments have baked into their structures and operations barriers that prevent people with disabilities from participating in governmental functions on equal terms. Congress recognized that these barriers, including exclusion from jury service, relegate people with disabilities “to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals.” 42 U.S.C. § 12101(a)(7) (2006).

Faced with this evidence and “[i]nvolving the sweep of congressional authority,” Congress designed the ADA to eradicate disability discrimination in all its forms and ensure equality of opportunity and full participation in all areas of American life. 42 U.S.C. § 12101(a)(3), (5), (b)(1), (4). To effectuate these protections, Title II of the ADA adopted prophylactic measures requiring public entities to proactively prevent exclusion of disabled people from their services, programs, and activities, including their court systems.

Empowerment: The Report of the Task Force on the Rights & Empowerment of Ams. with Disabilities (Oct. 12, 1990).

1. Section 504 and the ADA Impose Affirmative Obligations to Remove Barriers to Accessibility.

Both Section 504 and the ADA impose affirmative duties on public entities to “remove [the] architectural and other barriers to accessibility” that have long prevented disabled people from accessing government services, including jury service. *See Disabled in Action v. Bd. of Elections in City of N.Y.*, 752 F.3d 189, 197, 201 (2d. Cir. 2014) (quoting *Lane*, 541 U.S. at 531). Specifically, public entities must make “reasonable modifications in policies, practices, or procedures when . . . necessary to avoid discrimination on the basis of disability.” 28 C.F.R. § 35.130(b)(7)(i) (ADA); 28 C.F.R. § 41.53 (Section 504). Public entities must also provide auxiliary aids and services to ensure effective communication with a disabled person, based on the individual’s communication methods and needs. 28 C.F.R. §§ 35.160(b)(1)–(2). Because public entities bear a legal responsibility for removing the longstanding barriers to accessibility, the failure to fulfill these duties will have the same discriminatory effect as the barriers themselves.

Courts in this circuit and throughout the country have repeatedly affirmed the breadth of these duties. Public entities must not only modify existing policies and practices, they must also *create* new policies and procedures, *Delano-Pyle v. Victoria Cnty., Tex.*, 302 F.3d 567, 575 (5th Cir. 2002), modify and develop training protocols, *Haberle v. Troxell*, 885 F.3d 170, 179 n.7 (3d Cir. 2018), and secure and make available tools for eliminating accessibility barriers, such as auxiliary aids and

communication devices, *Clarkson v. Coughlin*, 898 F. Supp. 1019, 1038 (S.D.N.Y. 1995). Courts have repeatedly held that public entities' failure proactively to make reasonable modifications excludes disabled people from their services and programs and therefore violates the ADA, including, for example, where:

- A state court's failure to secure and appoint a sign language interpreter led court to exclude the deaf plaintiff from jury service. *DeLong v. Brumbaugh*, 703 F. Supp. 399, 404 (W.D. Pa. 1989);
- A prison's failure to identify and provide accessible formats and assistive devices prevented blind people from accessing parole-related documents. *Armstrong v. Newsom*, 724 F. Supp. 3d 886, 912–13 (N.D. Cal. 2024);
- The Board of Elections' failure to ensure accessibility of poll sites through temporary equipment, procedures, and policies on election days excluded people with mobility and vision disabilities from the voting program. *Disabled in Action*, 752 F.3d at 200–01;
- A prison's failure to secure and make available adaptive physical equipment excluded incarcerated person with mobility disabilities from outdoor recreation and social opportunities. *Reaves v. Dep't of Corr.*, 195 F. Supp. 3d 383, 426 (D. Mass. 2016); and
- A transit authority's failure to train paratransit operators to accommodate disabled people excluded people with mobility disabilities. *Martin v. Metro. Atlanta Rapid Transit Auth.*, No. 1:01-CV-3255-TWT, 2022 WL 2304612, at *1 (N.D. Ga. June 24, 2022).

Each of these cases illustrates how, as in Ms. Lakrout's case, the ongoing exclusion of disabled people from government services follows directly from the failure to proactively remove barriers to accessibility, whatever their source. Indeed, a public entity's failure to make reasonable modifications, including the failure to provide reasonable auxiliary aids and services, cements the systemic barriers to accessibility that Congress sought to eliminate in passing Section 504 and the ADA.

B. Systemic Barriers Continue to Cause the Widespread Exclusion of Blind and Otherwise Disabled People from Jury Service.

Blind prospective jurors face pervasive institutional barriers to jury service, resulting in a “de facto system of exclusion.” *Brief of Nat’l Fed. of the Blind et al. as Amicus Curiae in Massachusetts v. Heywood*, No. SJC-12724, 2019 WL 4246983, at *14–15 (Aug. 19, 2019). As *amicus curiae* writing in support of the blind plaintiff in *Massachusetts v. Heywood*, the National Federation of the Blind (“NFB”), whose New York chapter was formerly a plaintiff in this case, shared anecdotal evidence of discrimination from their members:

One NFB member reported that she was routinely turned away from jury service by court employees who told her that a blind juror would never be selected. Another NFB member described how court officials, upon learning of her blindness, told her that she likely would not be selected for jury service and encouraged her to simply disqualify herself if summoned. A third NFB member recalled being chosen for jury duty but subsequently removed and replaced by an alternate juror prior to closing arguments because she was blind—even though she had paid close attention throughout the trial while several of her co-jurors had fallen asleep. *Id.* at *15–16.

In an essay published in NFB’s periodical, *The Braille Monitor*, Maryland-based NFB member Daniel Frye shared a similar jury duty experience. On the day he was called to appear for jury service, Mr. Frye approached the front desk and was met by a worker who proceeded to have a whispered conversation with her colleague

about his blindness before informing Mr. Frye that he would not be called for a jury pool in the building across the street to ensure his safety. *See* Daniel B. Frye, *Juror* 458, 52 Braille Monitor 7 (July 2009), available at <https://nfb.org/sites/nfb.org/files/images/nfb/publications/bm/bm09/bm0907/bm090711.htm>. Mr. Frye noted that he had no concerns about safely crossing the street to participate. *See id.* Within a half-hour, every other member of Mr. Frye's jury group was instructed to report to the other courtroom, but he was told to stay behind. *See id.* Mr. Frye spoke with a supervisor in the Jury Commissioner's office who apologized and attributed the experience to a lack of staff training. *See id.* The pervasiveness, and similarity, of these experiences indicate widespread institutional failures to account for the needs of blind jurors through accommodation policies, procedures, and staff training—not individual discriminatory decisions.

Potential jurors with other disabilities also face pervasive barriers. Wheelchair users continue to face access barriers in courthouses hindering their participation in the legal system and jury service.³ The U.S. Department of Justice has recognized that people with mobility disabilities often face physical barriers at courthouses that

³ *See, e.g., Crawford v. Hinds Cty. Bd. of Supervisors*, 1 F.4th 371, 373–74 (5th Cir. 2021) (describing wheelchair-user's experience of being excluded from jury service multiple times because the courthouse and courtroom were not accessible); *see also Trotman v. State*, 218 A.3d 265, 265–66 (Md. 2019) (finding no abuse of discretion in case assigned to courtroom up 25 stairs with no elevator where trial judge excused four prospective jurors with disabilities, as inaccessible courtroom was only one available).

exclude them from participation entirely or force them to rely on others for assistance, including inaccessible paths of travel, bathrooms, and courtrooms.⁴ People with hearing impairments continue to experience denial of effective communication when they seek to access courts.⁵ These barriers are not the result of discriminatory individual decisions but are instead the result of the widespread failures of court systems to take the required affirmative steps to include and accommodate disabled court users.

⁴ U.S. Dep’t of Just., Civ. Rts. Div., Disability Rts. Section, *Project Civic Access: Cities and Counties: First Steps Towards Solving Common ADA Problems*, available at <https://archive.ada.gov/civiccommonprobs.htm> (noting that common barriers inside courtrooms include: doors that are too heavy to open; fixed seats or benches for courtroom spectators leave little room for people who use wheelchairs; inaccessible bathrooms; jury boxes and witness stands can only be accessed by climbing a step); U.S. Dep’t of Just., Civ. Rts. Div., Disability Rts. Section, *The ADA and City Gov’ts: Common Problems* (updated Feb. 24, 2020), available at <https://www.ada.gov/comprob.htm> (“If a municipal building such as a courthouse is inaccessible, people with disabilities who use wheelchairs are unable to participate in jury duty, attend hearings, and gain access to other services, because doorways are too narrow, restroom facilities are inaccessible, and steps are the only way to get to all or portions of a facility.”).

⁵ See, e.g., *Cuevas v. New Jersey*, No. 20-17555, 2021 WL 2024999, at *4 (D.N.J. May 20, 2021) (deaf municipal court user denied ASL interpreter stated claim); *Thayer v. Marin Cty. Superior Court*, No. 18-cv-01505-SI, 2018 WL 5733653, at *3 (N.D. Cal. Oct. 30, 2018) (deaf court user who alleged denial of real-time captioning stated claim under federal and state disability rights laws); *Prakel v. Indiana*, 100 F. Supp. 3d 661, 684 (S.D. Ind. 2015) (ruling that court violated Title II by denying court user qualified sign language interpreter); *Duvall v. Cnty. of Kitsap*, 260 F.3d 1124, 1142 (9th Cir. 2001) (reversing summary judgment and allowing deaf litigant to continue litigation arguing that court violated federal and state laws by failing to provide real-time captioning).

C. Affirmative Steps Are Necessary to Include Jurors with Disabilities.

Prospective jurors with disabilities, including people like Ms. Lakrout who are blind, are often excluded not because they cannot serve, but because of courts' failures to adopt effective policies for providing accommodations and ensuring effective communication, and failures to train personnel in their nondiscrimination responsibilities.⁶ As the National Center on State Courts ("NCSC") has recognized, "in the vast majority of situations disabled persons can be accommodated, and . . . it can be done without fundamentally altering jury service." Deborah Smith, Nat'l Ctr. For State Cts. and State Just. Inst., *Jurors with Disabilities* 4 (2018), available at <https://ncsc.contentdm.oclc.org/digital/collection/juries/id/300>.

Despite a broader cultural understanding that people with disabilities cannot be categorically excluded from jury service, deaf and blind people and people with other disabilities continue to be "excused" from service due to institutional failures to provide reasonable accommodations and effective communication. Court systems often fail to create policies and procedures for securing auxiliary aids and services like optical magnifiers, large-print materials, Braille materials and Braille note-taking computers, and electronic note takers, *id.* at 23; fail to budget for such items;

⁶ See, e.g., Complaint, *Koplitz v. Superior Court of D.C.*, No. 1:14-cv-01435-CKK (D.D.C., Aug. 22, 2014) (describing experiences of Michelle Koplitz, a deaf person who was summoned for grand jury service but not permitted to serve on the grand jury because the court refused to pay for an interpreter for the duration of the grand jury term).

and fail to adequately train court staff on how to include jurors and potential jurors with disabilities. *Id.* at 21.

NCSC advises that court systems should proactively create inclusive policies and procedures for accommodation, invest in assistive technologies, and train their personnel in how to accommodate people with a variety of disabilities to ensure disabled people's inclusion in the judicial process. *Id.* at 20–21. Without adequate accommodation procedures and staff training, blind jurors like Ms. Lakrout continue to be excluded from jury service not because of their inability to serve, but because of institutional practices that fail to account for their needs. This systemic discrimination against disabled jurors will persist absent proactive efforts to transform policies, procedures, and culture, depriving the judicial process of the valuable perspectives they would bring.

Accounting for blind jurors' needs is also a matter of flexibility and responsiveness to requests for accommodations. As one court recognized, "solutions are as limitless as a willing imagination can conceive." *Galloway v. Superior Ct. of District of Columbia*, 816 F. Supp. 12, 18 n.11 (D.D.C. 1993). The *Galloway* court used its imagination to provide examples of a variety of accommodations courts can employ to ensure the participation of blind jurors, including: audio describers, instructing attorneys to take care in questioning witnesses to ensure complete descriptions of visual evidence, reading documentary evidence out loud, describing

physical evidence out loud, or using devices that translate printed materials into audio. *Id.*

Consistent with the principle announced by *Galloway*, the court in *People v. Caldwell* declined to dismiss a juror because of her visual impairment and provided a variety of accommodations to allow her to participate in trial including moving her seat closer to the witness box, reading evidence into the record, and providing her with a large print transcript. 159 Misc. 2d 190, 192–95 (N.Y. Crim. Ct. 1993). The *Caldwell* court also noted that not being able to see witnesses’ facial expressions and body language did not disqualify the juror because she could make judgments and credibility determinations based on a variety of other factors, including several listed in standard jury instructions. *Id.* at 193 (citing Criminal Jury Instructions 2d [NY] 7.02, available at <https://nycourts.gov/judges/cji/1-General/CJI2d.Credibility.pdf>). Other potential accommodations for blind and low-vision jurors include allowing them to view exhibits up close, allowing them to touch physical evidence where possible, and providing written materials in Braille. Inaccessibility in court proceedings is rarely due to a lack of auxiliary aids and services available as accommodations for blind people—it can most often be attributed to public entities’ failures to imagine these limitless and simple solutions, explore accommodations in collaboration with prospective blind jurors, and plan for the many types of accommodations that blind jurors may utilize.

Enforcing Section 504 and the ADA’s duty to proactively remove barriers to accessibility is critical to the ability of disabled people to exercise their fundamental duties of citizenship, including jury service. As the American Bar Association recognized after the passage of the ADA, “courts, as symbols of justice and equality, must take the lead in making the ADA work” and the court in this case is no different.⁷

III. The New York State Unified Court System’s Rules and Guidance for Accommodating Disabled Jurors are Inadequate.

When Ms. Lakrout was excluded from jury service in October 2023, Defendant New York State Unified Court System (“UCS”)⁸ had issued only a 4-page guidance document titled “Guidelines for Handling Requests for Disability Accommodations” (the “Guidelines”) that lacked procedures for accommodating disabled people with respect to participating in jury service.⁹ Indeed, the Guidelines did not identify potential jurors as a group of people who may require

⁷ See generally Maryann Jones, *And Access for All: Accommodating Individuals with Disabilities in California Court*, 32 U.S.F. L. REV. 75, 96 (1997) (reviewing the experiences of disabled people who tried to access California courts and calling for courts to evaluate their processes and train personnel to ensure accessibility).

⁸ The NYS Office of Court Administration (“OCA”) is the administrative arm of the UCS. OCA issues the various policies and procedures, including guidance and training, to UCS. As used in this brief, the term “UCS” encompasses OCA.

⁹ The Guidelines are no longer available on the UCS website. The Guidelines appear as Document 13 to the Appendix to the Report and Recommendations of the New York State Bar Association Task Force on Mental Health and Trauma-Informed Representation (June 2023), <https://perma.cc/6WEX-ZGDX>.

accommodations. Instead, they contemplated accommodations only for court users without specifying that this group includes jurors and prospective jurors.

The Guidelines impose precisely the types of barriers to accessing jury service that Section 504 and the ADA prohibit. Ms. Lakrout faced any number of barriers to obtaining reasonable accommodations when she was called to jury service in 2023. The porous and decentralized nature of the accommodations process for jurors with disabilities make clear that Ms. Lakrout's injuries stem from systemic failure, not the intervening actions of the judge. Indeed, the Guidelines did not speak at all to the particular ways blind jurors might be accommodated with respect to participating in jury service. The Guidelines also omitted procedures and protocols for identifying disabled court users' accommodation needs, identifying and securing available auxiliary aids, services, equipment, devices, and materials, or for securing additional resources. Moreover, judicial accommodations were handled by the individual judge without the involvement of the Statewide ADA Coordinator, a written Denial Accommodation Form, or an ability to seek a timely review of the denial.

The Guidelines in place at the time Ms. Lakrout was excused from jury service therefore left thousands of individual judges and UCS administrative personnel across the UCS system throughout New York State ill-equipped to resolve accommodation requests. These decentralized procedures for requesting accommodations entrench the barriers faced by prospective disabled jurors.

IV. The District Court's Erroneous Causation Analysis Would Insulate Systemic Discrimination from Meaningful Judicial Review.

Under the District Court's reasoning, a potential juror would never have standing to sue a court system under Section 504 or the ADA for disability discrimination, including a failure to provide reasonable accommodations, so long as the message of exclusion is conveyed by a judge. This erroneous causation analysis shields Defendants from judicial review and directly undermines the objectives of Section 504 and the ADA as reviewed by the Supreme Court in *Lane*. 541 U.S. at 527 (detailing evidence considered by Congressional taskforce regarding the exclusion of persons with visual impairments and hearing impairments from jury service).

The district court's decision is particularly damaging in the disability-rights context, where—as explained in Section II—disability discrimination often results not from a single discriminatory act, but from the cumulative effects of inadequate planning, inaccessible systems, and failures to provide legally required accommodations. As described above, Defendants lack procedures and protocols for identifying disabled court users' accommodation needs and for identifying and securing resources for meeting those needs. Consistent with that failure, no one, including the judge or the prosecutor, asked Ms. Lakrout what accommodations she needed, investigated any accommodations, or initiated any meaningful procedures

to determine effective accommodations. J.A.33 ¶¶ 13–14; J.A.52–56. Ms. Lakrout’s experience was not an isolated incident but reflects an inaccessible court system that disregards the requirements of Section 504 and the ADA.

The District Court’s decision not only weakens protections for people with disabilities, but risks enabling courts to discriminate based on other protected characteristics. State and federal law mandates juries to be selected from a fair cross-section of the community. 28 U.S.C. § 1861; N.Y. Jud. Law § 500. The U.S. Constitution forbids the exclusion of jurors based on race and/or gender. *J.E.B. v. Ala. ex rel. T.B.*, 511 U.S. 127, 146 (1994); *Batson*, 476 U.S. at 93–94; *Taylor*, 419 U.S. at 537. The District Court’s decision undermines this long-settled mandate by shielding unlawful discrimination against prospective jurors where the discrimination was communicated by the judge. If the “blessing” of a judge could break the causal connection that grants standing, as the District Court held, then all forms of systemic discrimination against potential jurors would be insulated from judicial review. The District Court’s dangerous precedent should be reversed.

CONCLUSION

For the reasons stated above, amici respectfully submit that this Court should reverse.

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New York, New York

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I certify that this Brief of Amicus Curiae in Support of Plaintiffs–Appellants and Reversal complies with the type-volume limitation, typeface requirements, and type style requirements of Federal Rule of Appellate Procedure 32(a)(5) and (6), and 29(5) because it contains 5958 words, excluding parts of the document exempted by Federal Rule of Appellate Procedure 32(f), and has been prepared in a proportionally spaced typeface, 14-point Times New Roman, using the word-processing system used to prepare the document.

Dated: August 7, 2026
New York, New York

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CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2026, I electronically filed the foregoing document with the Clerk of the Court using the ACMS system, which will send notification of such filing to all counsel of record.

Dated: August 7, 2026
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